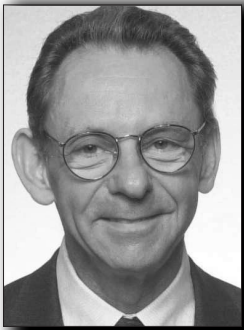


MAKING MONEY: YOUR PRACTICAL GUIDE TO PROFIT PART II

By Edward Poll



Edward Poll

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In Part I of "Making Money," Ed Poll covered the five most important measurement benchmarks, and he started to outline his practical tips for making more profit. In Part II, he finishes up with five more money-making suggestions for lawyers.

1. Qualify Your Clients

I once worked for a large law firm, and they had to write off the billings of several clients, each of whom had three or four hundred thousand dollars in accrued receivables! That's a huge number, even for a large firm, to write off. And the reason they did this is because they never bothered to qualify the clients during the intake process. They forgot to ask the clients how much they were willing to spend to pursue their matters. Basically, the firm forgot to check out the economic viability of the clients. Instead, and because the fear of malpractice had them covering every base they could conceivably think of, they ran up big bills. And the clients said, "Wait a minute, for what that matter was, you're not entitled to that kind of a fee." And they refused to pay it.

The moral of this story: When you get a new client, make sure you qualify them first.

2. Raise Your Fees

Chances are, your fees have been at the same level for a long time.

How do you raise them? One of the keys is to do it in small amounts, like five, ten, or fifteen dollars at a time, done once a year or once every 18 months. That kind of incremental increase will seldom offend anyone or cause a client to leave you for another attorney. They understand that costs are increasing, but whether they do or not, think about raising your fees if you think your market will accept it.

3. Price Your Legal Services Right

- What the Market Says: How you price your services is dependent on a number of things, one of which is: what is the market telling you? In the 1960s, the Bar Association could tell us what a

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**Our Mission:
To Improve the
Quality of Law
Practice Through
Effective Management
and Technology**

**FREE
MCLE
FOR
LPMT
MEMBERS!**

FROM THE CHAIR



Robert Kohn

Dear section members:

As this year's Chair of the California State Bar Law Practice Management and Technology Section (LPMT), let me welcome you to our June issue of the Bottom Line. Our primary goal this year has been to enhance value to our members. I would like to share with you two new ideas for member benefits that we are currently discussing.

Benefit #1: JD-Network—The Electronic Networking Database

The first idea, one that I think is particularly innovative and exciting, is JD-Network—The Electronic Networking Database. The purpose of this database is to help our members meet other section members who are potential mutual referral sources. This is a database that my company, Kohn Communications, has spent several years developing and testing. We have agreed to license it for free to the LPMT Section with the hope that it is something our members will find useful. Some modifications are still required so we can't say exactly when the program will be ready. But once these modifications are complete, the database will be made available exclusively and at no additional cost to LPMT members. More information about this program will be provided once it is up and running.

Benefit #2: Discounts on products and services

The second idea we hope to implement in the near future is the availability of significant discounts on legal products and services. These will range from popular software products to photo-copy services. To date, we have arranged for discounts on the following: Summation, Case Map, Time Map, Time Slips, Time Matters, Concordance, just to name a few. And over time, we will focus on building the list.

Ongoing Benefits

In addition to our new benefits, I always like to remind our new members of some of the ongoing benefits we provide.

Legal Works and Legal Tech

Every year we provide hundreds of dollars in savings for both Legal Works and Legal Tech. This year's programs were held in April and May. But, if you missed them, we'll be offering discounts again to our members next year.

Six Newsletters per year with MCLE

Thanks to our relationship with West Group, every year we publish six issues of The Bottom Line. Each issue offers at least one article for MCLE credit. In August, our entire newsletter will be devoted to Hard-to-find MCLE credit in Substance Abuse, Bias in the Work Place, and Ethics.

We have been working hard to help our members' practices run more efficiently and make more money. We believe that the annual dues of \$60 are extremely reasonable in relation to the benefits you currently receive and will be receiving in the near future.

I look forward to my next letter to you in August. Until then, have a great summer!

Sincerely,

Robert N. Kohn, Chair
Law Practice Management and Technology Section
State Bar of California

Robert N. Kohn is senior vice president of Kohn Communications, a marketing and management consulting firm for lawyers and other professionals. He and his partner Lawrence Kohn are pioneers in the consulting technique known as executive coaching. They can be reached at 310-652-1442 or at www.kohncommunications.com.

reasonable fee was. This was a great tool for new lawyers to figure out what the market was charging for particular services. However, the Supreme Court said that was price fixing, and this no longer happens today. But, you can still gather the information by talking to your colleagues, by being active in your Bar Association, by having a network of other lawyers. You can find out what's being charged in your market, and then react accordingly.

• **What Type of Practice Is It?** Another important aspect of pricing is understanding what kind of practice you have. Is it a commodity practice, such as consumer bankruptcy, low-income family law, or slip-and-fall, personal injury? Or, do you have a bet-the-company type of practice handling one-of-a-kind cases? You need to clearly understand what type of practice you have in order to determine what your pricing should be.

• **By the Hour, or...?** Hourly is not the only way to bill. Another popular way is to create a "laundry list" of charges and, when you have a written fee agreement, attach that list to the agreement. And by laundry list, I mean things like: half-day deposition costs "X," a Petition for Dissolution of Marriage costs "Y," and so forth. You have fixed prices for each element of what you're doing.

Obviously, you can't do that for everything you do, but you can certainly do it for many repeatable services. Why is this a good idea? First, the client will know up front what it's going to cost. Second, if you are charging by the hour, you'll eventually fall into the "Technology Trap," which goes like this: You spend more money investing in the technology, you become much more efficient by using that technology, and you can now do your work faster. The result of these improvements if you're still charging by the hour? You charge your client *less*, which means you've got to get two clients for the work you used to do for one client!

If, however, you have a laundry list of fixed prices, then you can become more efficient, but you won't be losing money since you can now do more work in the

same amount of time. Think of it in terms of the assembly line. When Ford or Chevy improves their efficiency, do they lower their prices? No. They seek to take advantage of the efficiencies that they're able to create. Lawyers ought to be able to do the same thing.

• **Start Thinking More in Terms of Value Billing.**

Here's a real-world example of how general counsel who had gotten accustomed to the billable hour learned to appreciate the concept of "value billing."

A large firm was dealing with a big bank in a major litigation. The outside counsel wanted to file a motion for summary judgment. The firm went to the client, the general counsel, and said they wanted to prepare and

THINK OF IT IN TERMS OF THE ASSEMBLY LINE. WHEN FORD OR CHEVY IMPROVES THEIR EFFICIENCY, DO THEY LOWER THEIR PRICES? NO.

file this motion. General counsel said, "I don't think we're going to win, and I don't want to pay for an exercise in futility." The outside counsel was so convinced of the value of the summary judgment that they got creative. They made an offer to the general counsel, saying, "Look, our normal rate is \$300 per hour. We will charge you \$150 for all the work on the motion for summary judgment, including the hearing. If we lose, you don't owe us anything more. But, if we win the motion, we want \$600 an hour." General counsel agreed to the deal. When the time came for the general counsel to write the check, he had no problem paying the \$600 an hour since the motion for summary judgment resulted in a total victory for the bank. That's value billing.

Remember, it's the client's perception that determines value.

4. Do Your Billing Right

• **Send your bills out regularly.** The end of the month is best. Do not wait until the third, fourth, or fifth day of the month. That's when your client should

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be *receiving* your bill. If you're dealing with businesses, around the fifth to the tenth of each month is when they cut off their accounts-payable cycle. That means that they'll put your bill in their cycle for the following month, not for this month.

• **Make Your Bills Understandable and Positive.**

Your clients need to understand the bills, so make sure they're in English, not legalese. And, as a corollary to that, put a positive spin on your bill. In most tasks that you perform, there's usually something positive, something of value that's given to the client that you can talk about. Don't hide the negative stuff, but start with the positive. Your clients will pay their bills faster if they think that they've received value from you, and they won't know that unless you tell them.

Here's an example. In a family law matter, you represent the husband, and there's a \$10,000 per month temporary custody and spousal support order issued by the court. That's a big number, and it's going to hurt the client, economically as well as emotionally. However, maybe you succeeded in getting visitation rights that the client wasn't expecting, or that he was fearing would be taken away from him. So, in the billing, start with the visitation rights, then end up with the financial award.

• **If you accept credit card payments, you're going to get paid faster.**

5. Concentrate on Revenue, not Expenses.

Overhead is a big issue, but there's only so much you can cut. When you focus only on expenses or overhead, you become obsessed with that because it's something you can understand. But, when you cut too much, you're cutting the muscle, not just the fat, of your practice. This could be the muscle that you may need for an increase in clients or for matters in the near future.

If you want to make more money, think mostly about increasing your revenue. Figure out ways to target the right kind of client to get the right kind of work that will bring in the higher revenue. When you make more money, the costs will take care of themselves.

Edward Poll, J.D., M.B.A., CMC, is a certified management consultant and coach who advises attorneys and law firms on how to deliver their services more profitably. He is the author of Collecting Your Fee: Getting Paid from Intake to Invoice (ABA, 2003) and Attorney & Law Firm Guide to The Business of Law: Planning & Operating for Survival & Growth, 2nd Ed., (ABA, 2002). He is also the creator of Law Practice Management Review: The Audio Magazine for Busy Attorneys. To make suggestions or comments about this article, call (800) 837-5880 or send an email to edpoll@lawbiz.com. You can also order a free e-zine or visit Ed on the web at www.lawbiz.com.



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Law Practice Management
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HOW TO RECEIVE MCLE CREDIT

After reading the MCLE credit article, complete the following test to receive 1.00 hours of MCLE credit

- Answer the test questions on the form below. Each question has only one answer.
- Mail form and a \$20 processing fee **(No fee for LPMT Members)** to: LPMT Section, State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639
- Make checks payable to LPMT
- Correct answers and a CLE certificate will be mailed to you within eight weeks.

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ADDRESS/STATE/ZIP _____

CERTIFICATION: The State Bar of California certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education. This activity has been approved for the minimum continuing education credit by the State Bar of California in the amount of 1.00 hours which will apply to Law Practice Management.

QUESTIONS: MAKING MONEY PART II

1. When you begin working for a new client without a background check, you will most likely get paid in full.

True False

2. Qualifying your clients includes checking out their ability to pay.

True False

3. If you raise your fees, do it in large amounts.

True False

4. Clients understand that costs are always increasing, and they are willing to accept modest fee raises.

True False

5. The Bar Association can tell lawyers how much to charge.

True False

6. The marketplace is the final arbiter of your fee.

True False

7. Can a lawyer find out what's being charged in their market?

8. Consumer bankruptcy, low-income family law, and slip-and-fall—personal injury, fall under what type of practice?

9. Hourly is the only way to bill.

True False

10. What is the "Technology Trap"?

11. Using a laundry list of fixed prices allows lawyers to take advantage of efficiencies and to do more work in the same amount of time.

True False

12. The "value" in value billing is always in the mind of the client.

True False

13. When given the opportunity to negotiate the lawyer's fee, based on value, will the client be willing to do so?

14. When should you send out your monthly bill?

15. Why?

16. Make sure your bills are in English, not "legalese."

True False

17. What's the best thing to start off a bill with?

18. Does accepting credit card payments help you get paid faster?

19. If you want to make more money, concentrate on revenue, not expenses.

True False

20. What are the six main actions Ed Poll suggests lawyers take in order to make more money?

1.

2.

3.

4.

5.

6.

